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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Warren J. Scherer Examiner: Leslie A. Royds  
Serial No.: 10/626,037 Group Art Unit: 1614  
Confirmation No.: 1255 Docket: 512-160  
Filed: July 23, 2003 Dated: May 31, 2007  
For: Methods of Treating  
Cutaneous Flushing Using  
Selective Alpha-2-  
Adrenergic Receptor  
Agonists

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

*I hereby certify this correspondence is being deposited  
with the United States Postal Service as first class mail,  
postpaid in an envelope, addressed to: Commissioner  
for Patents, P.O. Box 1450, Alexandria, Virginia  
22313-1450 on May 31, 2007*

Signature: *Michael Flanagan*

**RESPONSE TO NOTICE OF NON-RESPONSIVE AMENDMENT**

Sir:

This paper is being submitted in response to the Notice of Non-Responsive Amendment mailed May 16, 2007. Applicant does not believe any fees are required for the filing of this response, however, if any fees are required, please charge Deposit Account No. 08-2461 for such sum.

In an office action mailed on September 11, 2006, the examiner imposed a Restriction Requirement and Election of Species Requirement. Applicant submitted a response on March 9, 2007 whereby Group II directed to claims 5-6, brimonidine tartrate, and steroidal anti-inflammatory agents were elected without traverse.

Applicant understood that the claims denoted as linking claims by the examiner, i.e. claims 1-2, 11-21, and 26-28, would be analyzed first. It was also applicant's understanding

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that if the linking claims were not allowed, then the examiner would impose the restriction requirement and analyze claims 5-6.

A Notice of Non-Responsive Amendment was mailed on May 16, 2007 in which the examiner states (1) applicant's election of the genus of steroidal anti-inflammatory agents is non-responsive to the previous Office Action because it does not identify the single disclosed species of steroidal anti-inflammatory agent to which prosecution on the merits will be restricted and (2) applicant has failed to identify the claims that are readable upon the elected species of alpha-2-adrenergic agonist and additional agent.

Applicant wishes to thank Examiner Leslie Royds for discussing the notice dated May 16, 2007, with applicant's representative, the undersigned, on May 23, 2007. During the discussion, Examiner Royds indicated that election of a species of steroidal anti-inflammatory agent must be made although neither the specification nor claims lists species of steroidal anti-inflammatory agents. Examiner Royds indicated that since steroidal anti-inflammatory agents are well known, the requirement of election was proper. Applicant wishes to thank Examiner Royds for this clarification.

Applicant selects hydrocortisone as the steroidal anti-inflammatory agent without traverse. Applicant believes that claims 1-2, 5-6, 11-16, and 18-28 are readable upon the elected species of  $\alpha$ 2-adrenergic receptor agonist and additional agent.

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It is now believed that this application is in condition for further consideration and examination. If resolution of any remaining issues are required prior to examination of the application, it is respectfully requested that the examiner contact applicant's attorney at the telephone number provided below.

Respectfully submitted,



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